

**CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON**

**ORDINANCE NO. 1091**

**AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON  
AMENDING LAKE STEVENS MUNICIPAL CODE SECTION 14.08.010  
DEFINITIONS OF BASIC TERMS; AMENDING CHAPTER 14.64 SPECIAL  
FLOOD HAZARD AREAS; PROVIDING FOR SEVERABILITY, SUMMARY  
PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, in 2016, the City of Lake Stevens updated its Flood Hazard Regulations for compliance with the FEMA model ordinance and consistency with the Endangered Species Act (ESA) through the adoption of Ordinance 964; and

**WHEREAS**, to remain eligible for national flood insurance, the city must adopt updated flood hazard regulations, consistent with the FEMA model regulations, no later than June 19, 2020; and

**WHEREAS**, the City of Lake Stevens SEPA Responsible Official issued a Determination of Non-significance (DNS) for the proposed code amendments on April 20, 2020; and

**WHEREAS**, the Department of Commerce granted expedited review of the proposed amendment on May 4, 2020; and

**WHEREAS**, the Lake Stevens Planning Commission conducted a duly noticed open-record public hearing on May 19, 2020 to consider the proposed code amendments; and

**WHEREAS**, the Lake Stevens Planning Commission has provided the City Council with a recommendation of approval for the proposed amendments; and

**WHEREAS**, the City Council reviewed and considered the Planning Commission's findings, conclusions, and recommendation at a duly noticed public hearing on June 9, 2020; and

**WHEREAS**, the City finds that the proposed code amendments are consistent with the decision criteria found in LSMC 14.16C.075 (f);

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DOES  
HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Findings. The City Council hereby adopts the recitals expressed above as findings in support of this ordinance and adopts the Findings and Conclusions recommended by the Lake Stevens Planning Commission attached hereto as **Exhibit A**, in support of said amendment.

**Section 2.** LSMC Section 14.08.010 is hereby amended by the deletion of the following definitions - all other provisions of Section 14.08.010 remain in effect and unchanged:

**14.08.010 Definitions of Basic Terms.**

~~Appeal (definition related to flood permits only). A request for a review of the interpretation of any provision of this title or a request for a variance.~~

**Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100 year flood”). The area subject to the base flood is the special flood hazard area designated on Flood Insurance Rate Maps as Zones “A” or “V” including AE, AO, AH, A1-99 and VE.

**Base Flood Elevation (BFE).** The elevation of the base flood above the datum of the effective FIRM to which floodwater is anticipated to rise during the base flood.

**Basement.** Any area of a building having its floor below ground level (subgrade) on all sides in relationship to Chapter 14.64 and Chapter 14.88, Part V.

**Channel Migration Area.** The area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradations, avulsions, and shifts in location of stream channels locally characterized to include the outer limits of the special flood hazard area.

**Critical Facility.** A facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use) in relationship to Chapter 14.64 and Chapter 14.88, Part V.

**Development (definition related to flood permits only).** Any manmade change to improved or unimproved real estate in the regulatory floodplain, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of more than five percent of the native vegetation on the property, or alteration of natural site characteristics in relationship to Chapter 14.64 and Chapter 14.88, Part V.

**Elevation Certificate.** The official form (Form 81-31) used by FEMA to provide elevation information necessary to determine the proper flood insurance premium rate.

**FEMA.** The Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

**Flood Fringe.** The portion of the floodplain lying outside of the floodway.

**Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study.** The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Protection Elevation (FPE).** The base flood elevation plus one foot.

**Flood Zones.** Geographic areas that the FEMA has defined according to varying levels of flood risk. These zones, as depicted on the City’s Flood Insurance Rate Map (FIRM), reflect the severity or type of flooding in the area.

**Floodplain.** See Regulatory Floodplain.

**Floodway.** The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than

one foot at any point. As used in this title, the term refers to that area designated as a floodway on the Flood Insurance Rate Map prepared by the U.S. Federal Emergency Management Agency, a copy of which is on file in the Planning and Community Development Department.

Frequently Flooded Areas. Lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements per Chapter 14.64 (Special Flood Hazard Areas).

Mitigation (definition related to flood permits only). An action taken to reduce or eliminate the risk of a hazard such as flooding; mitigation actions attempt to prevent flood hazards from developing into disasters, or to reduce the effects of flooding when it occurs in relationship to Chapter 14.64 and Chapter 14.88, Part V.

Moderate to Low Risk Areas or Non Special Flood Hazard Area. Lands outside the one percent special flood hazard areas where the risk of being flooded is reduced, but not completely removed. FIRM maps designate non-special flood hazard areas with the letter B, C or X (or a shaded X).

Natural Floodplain Functions. The contribution that a floodplain makes to support habitat, including, but not limited to, providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations, and providing breeding and feeding grounds, shelter, and refugia for aquatic or riparian species.

Protected Area (definition related to flood permits only). The lands that lie within the boundaries of the floodway, the riparian habitat zone, and the channel migration area. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the protected area in relationship to Chapter 14.64 and Chapter 14.88, Part V.

Regulatory Floodplain. The regulatory floodplain is comprised of the special flood hazard area and all protected areas within the jurisdiction.

Special Flood Hazard Area (SFHA). Land subject to inundation by the base flood having a one percent chance of being equaled or exceeded in any given year. FIRM maps designate special flood hazard areas as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30.

Structure (definition related to flood permits only). A walled and roofed building including a gas or liquid storage tank that is principally above ground in relationship to Chapter 14.64 and Chapter 14.88, Part V.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the assessed market value of the structure before the damage occurred. "Substantial damage" also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the assessed market value of the structure before the damage occurred in relationship to Chapter 14.64 and Chapter 14.88, Part V.

Substantial Improvement (definition related to flood permits only). Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

~~(a) Before the improvement or repair is started; or~~

~~(b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

The term can exclude:

~~(a) Any project for improvement of a structure to correct preexisting violations of State or local health, sanitary, or safety code specifications which have previously been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

~~(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

~~Undetermined Risk Areas. Land where no flood hazard analysis has been conducted, but a flood risk still exists. FIRM maps designate these areas with the letter D on the flood maps.~~


**Section 3.** Chapter 14.64, is hereby amended to read follows as depicted in Exhibit B:

**Section 4.** Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

**Section 5.** Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**Section 6.** Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

**PASSED** by the City Council of the City of Lake Stevens this 9th day of June 2020.

  
Brett Gailey, Mayor

ATTEST/AUTHENTICATION:

  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

  
Greg Rubstello, City Attorney

First & Final Reading: June 9, 2020

Date of Publication: 6/17/2020

Effective Date: 6/17/2020

## EXHIBIT A



### Planning & Community Development

1812 Main Street  
P.O. Box 257  
Lake Stevens, WA 98258

May 19, 2020

Lake Stevens City Council  
1812 Main Street  
Lake Stevens, WA 98258

**Subject: Planning Commission Recommendation – Flood Hazard Regulations**

Dear Council Members:

The Lake Stevens Planning Commission was briefed on proposed changes to the city's flood hazard regulations and held a public hearing to consider a code amendment on May 19, 2020. The Planning Commission forwarded a recommendation to City Council to approve the code amendment following the hearing, review of testimony and deliberation.

**Commissioners Present:** Chair Davis and Commissioners Cronin, Durer, Hoult, Huxford, Oslund and Welch.

**Commissioners Absent:** None

#### **PLANNING COMMISSION PUBLIC HEARING**

The Lake Stevens Planning Commission held a public hearing on May 19, 2020, to consider proposed amendments to the Lake Stevens Municipal Code pertaining to the city's existing flood hazard regulations. The proposed changes incorporate the recommendations from a Federal Emergency Management Agency (FEMA) review for consistency with the Model Ordinance. No public comments were made.

#### **FINDINGS AND CONCLUSIONS:**

The Planning Commission hereby adopts staff's findings and conclusions as outlined in this letter and concludes that the proposed amendments comply with the following:

#### **FINDINGS AND CONCLUSIONS:**

##### ***1. Compliance with selected Land Use Goals of the Comprehensive Plan***

- Land Use Goal 4.1, Policy 4.1.1 – The city will continue to prioritize the protection of wetlands, streams and creeks, lakes and ponds, aquifer recharge areas, geologically hazardous areas (e.g., steep slopes and erosion areas), significant trees, fish and wildlife habitat areas and corridors, cultural resources, and frequently flooded areas through land use policies, regulations and decisions based on best available information and in coordination with state and regional priorities.

- Land Use Goal 4.1, Policy 4.1.15 – Encourage and support the retention of natural open spaces or land uses which maintain hydrologic function and are at low risk to property damage from floodwaters within frequently flooded areas.
- Environment and Natural Resource Goal 4.3, Policy 4.3.2 – Ensure compatibility of land uses with topography, geology, soil suitability, surface water, ground water, frequently flooded areas, wetlands, climate and vegetation and wildlife.
- Environment and Natural Resource Goal 4.3, Policy 4.3.4 – Permit development, fill, or encroachments in floodways, frequently flooded areas, highly erodible areas and other critical areas using Best Management Practices (BMP's) and Best Available Science (BAS).
- Environment and Natural Resource Goal 4.3, Policy 4.3.7 – Support the restoration of degraded shorelines and other critical areas to help minimize erosion, sedimentation and flooding.
- Environment and Natural Resource Goal 4.3, Policy 4.3.8 – Protect natural drainage systems and courses associated with floodways, floodplains, or other areas subject to flooding.

**Conclusions – The proposed code amendments are consistent with several Land Use and Environment and Natural Resource goals.**

**2. *Compliance with the State Environmental Policy Act (SEPA) (Chapter 97-11 WAC and Title 16 LSMC)***

- Staff prepared an environmental checklist for the proposed code revisions, dated March 23, 2020.
- The SEPA official issued a Determination of Non-significance on April 20, 2020.
- The city received comments from FEMA and DOE – these changes have been integrated into the proposed revisions.

**Conclusions – The proposed code amendments have met local and state SEPA requirements.**

**3. *Compliance with the Growth Management Act (RCW 36.70A.106)***

- The city requested expedited review from the Department of Commerce on April 17, 2020.
- The Department of Commerce granted Expedited Review on April 4, 2020.
- Staff will file the final ordinance with the Department of Commerce within 10 days of City Council action.

**Conclusions – The proposed code amendments have met Growth Management Act requirements.**

**4. *Public Notice and Comments (Exhibit 5)***

- The city published a notice of SEPA determination in the Everett Herald, city website and city bulletin board on or around April 20, 2020.
- The city published a notice of Public Hearing in the Everett Herald city website and city bulletin board per Chapters 14.16A and 14.16B LSMC.

**Conclusions – The City has met public notice requirements per Chapter 14.16B LSMC.**

**PLANNING COMMISSION RECOMMENDATION**

**Flood Hazard Amendments:** The Planning Commission unanimously recommended approval of the updated flood hazard regulations for City Council action.



## EXHIBIT B

### Chapter 14.64 SPECIAL FLOOD HAZARD AREAS

#### Sections:

- 14.64.005 Basis for Establishing Special Flood Hazard Areas
- 14.64.010 Application of Regulations
- 14.64.015 Authority and Duties of the Floodplain Administrator
- 14.64.020 Administrative Procedures
- 14.64.025 Conformance with Chapter 14.88 (Critical Areas), Chapter 14.92 (Shoreline Management), Section 14.16C.100 (Shoreline Permits), and the Shoreline Master Program
- 14.64.030 Exemptions and Allowed Activities
- 14.64.035 Other Activities
- 14.64.040 Development Standards
- 14.64.045 Construction Standards for Protection of Structures
- 14.64.050 Special Provisions for ~~Subdivisions~~Development
- 14.64.053 Variances
- 14.64.055 Standards for Habitat Protection
- 14.64.060 Definitions

#### **14.64.005 Basis for Establishing Special Flood Hazard Areas.**

The City hereby adopts by reference the special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) Insurance Administrator in ~~its most current~~a scientific and engineering report titled "The Flood Insurance Study (FIS) for Snohomish County, Washington, and incorporated Areas" dated ~~November 8, 1999~~June 19, 2020, and any revisions thereto, with ~~the current~~ accompanying Flood Insurance Rate Maps (FIRM), and any revisions thereto, and declare the same to be a part of the Lake Stevens Municipal Code. The ~~Flood Insurance Study FIS and FIRM are~~is on file in the Planning and Community Development Department.

#### **14.64.010 Application of Regulations.**

- (a) All development in the regulatory floodplain, within the City of Lake Stevens, comprised of the special flood hazard area and all protected areas (i.e., lands within the boundaries of the floodway, the riparian habitat zone, and the channel migration area locally defined and mapped) shall comply with the terms of this chapter and other applicable local, state, and federal regulations including, but not limited to, obtaining necessary permits and approvals.
- (b) The degree of flood protection required is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. There shall be no liability on the part of the City of Lake Stevens, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this code or any administrative decision lawfully made hereunder.
- (c) Under the provisions of this chapter, the City will allow an applicant to request permit specific review as consistent with National Flood Insurance Program regulation contained in 44 CFR 60.3(a)(2) to

assess development impacts to floodplain and associated habitat functions and any requested deviations pursuant to the submission of a habitat impact assessment per Section 14.64.055(c) and, if necessary, a habitat mitigation plan per Section 14.64.055(d). Under a permit specific review, the development proposal must otherwise follow the defined administrative review procedures and regulations of this chapter.

- (d) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to the provisions of Chapter 17.20 LSMC including but not limited to civil enforcement procedures and penalties.
- (f) This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

#### **14.64.015 Authority and Duties of the Floodplain Administrator.**

- (a) The Floodplain Administrator shall be the Planning and Community Development Director, or the Director's designee, appointed to ~~administer and implement~~administer, implement and enforce this chapter by granting or denying floodplain development permits in accordance with its provisions.
- (b) Upon receipt of a floodplain development application, the Floodplain Administrator shall compare the project's site elevation to the base flood elevation. A development project is not subject to the requirements of this chapter if it is located on land outside the protected area and higher than the base flood elevation.
- (c) The Floodplain Administrator shall determine, where needed, the exact location of the boundaries of the regulatory floodplain, the special flood hazard area, and the protected area when there appears to be a conflict between the mapped special flood hazard area boundary and actual field conditions, as determined by the base flood elevation and ground elevations per the criteria found in Section 14.88.510. The applicant may appeal an administrative interpretation of the boundary location to the hearing examiner in accordance with Section 14.16A.265.
- (d) Where the adopted ~~FIS or FIRM map~~ does not include base flood elevation and floodway data for special flood hazard areas, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, and/or other sources.
- (e) The Floodplain Administrator shall obtain and maintain, for public inspection, all records pertaining to the provisions of this chapter and submit such reports as required for the National Flood Insurance Program.



#### 14.64.020 Administrative Procedures.

- (a) The City shall require a floodplain development permit before construction and/or development begins within the regulatory floodplain.
- (b) The City shall review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required, provided, the primary responsibility to identify and obtain required permits shall remain with the developer, and the City shall have no liability to the developer should it fail to identify any other permit that is determined to be required by the agency administering such permit.
- (c) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures
- (d) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data are provided through the FIS, FIRM, or as required in Section 14.64.015(d):
  - (1) ~~Obtain and record~~ the proposed elevation (in relation to mean sea level) to which the structure was-will be floodproofed;
  - (2) Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in ~~Maintain the floodproofing certifications required in~~ Section 14.64.045(c).
- (e) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development
- (f) Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source per LSMC 14.64.015(d), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
- (e) Applicants shall submit a floodplain development permit, on forms furnished by the City, and shall submit one or more site plans, drawn to scale, including, but not limited to, the following:
  - (1) The nature, location, dimensions, and elevations of the property in question;
  - (2) Names and locations of all lakes, water bodies, waterways and drainage facilities within 300 feet of the site;
  - (3) The elevations of the 10-, 50-, 100-, and 500-year floods, where the data are available;
  - (4) The boundaries of the regulatory floodplain, special flood hazard area, floodway, riparian habitat zone, and channel migration area, as appropriate;
  - (5) The proposed drainage system including, but not limited to, storm sewers, overland flow paths, detention facilities and roads;
  - (6) Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;
  - (7) Critical areas per Chapter 14.88; and
  - (8) Existing native vegetation and proposed revegetation.

- (f) The applicant must record a notice on title that the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable, before the City issues the floodplain development permit.
- (g) The City shall notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (h) The City shall assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained, require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (i) Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- (j) Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

**14.64.025 Conformance with Chapter 14.88 (Critical Areas), Chapter 14.92 (Shoreline Management), Section 14.16C.100 (Shoreline Permits), and the Shoreline Master Program.**

Uses permitted within regulatory floodplain must also be consistent with Chapter 14.88, Chapter 14.92, Section 14.16C.100 and the Shoreline Master Program. Wherever regulations conflict in these chapters, the more restrictive provisions shall prevail. The intent of this section is to prevent development that is inconsistent with Chapter 14.88, Chapter 14.92, Section 14.16C.100 and the Shoreline Master Program even though it may seem permissible according to the regulations of this chapter.

**14.64.030 Exemptions and Allowed Activities.**

- (a) ~~Nondevelopment-Exempt~~ Activities. ~~The following activities~~ Activities in the regulatory floodplain that do not meet the definition of "development" are exempt activities and do not require a floodplain development permit if the activity meets all other federal, state, and local requirements. ~~The following are examples of activities not considered development:~~
  - (1) Routine maintenance of landscaping that does not involve grading, excavation, and/or filling;
  - (2) Removal of noxious weeds and hazard trees and replacement of nonnative vegetation with native vegetation;
  - (3) Normal maintenance of structures, such as reroofing and replacing siding, provided such work does not qualify as a substantial improvement;
  - (4) Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles;
  - (5) Normal maintenance of streets and roads including filling potholes, repaving, and/or installing signs and traffic signals, but not including expansion of paved areas;

- (6) Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition for protection on the face or toe with rock armor; and
  - (7) Plowing and other normal farm practices (other than structures or filling) on farms in the regulatory floodplain and in existence as of the effective date of the ordinance establishing this chapter do not require a floodplain development permit. Clearing additional land for agriculture after the effective date of Ordinance No. 860 shall require a floodplain development permit.
- (b) Activities Allowed with a Floodplain Development Permit. The City will allow the activities listed below in the regulatory floodplain, without a habitat impact assessment per Section 14.64.055(c), when the activity meets all other requirements of this chapter:
- (1) Repairing and/or remodeling existing structures if the repairs and/or remodels are not a substantial improvement or a repair of substantial damage;
  - (2) Maintenance and/or repair of shoreline stabilization structures pursuant to the Shoreline Master Program that does not involve grading, excavation and/or filling;
  - (3) Maintenance, repair, remodel and/or new over-water structures pursuant to the Shoreline Master Program that does not involve grading, excavation and/or filling;
  - (4) Expansion of existing structures when the expansion does not increase the existing footprint more than 10 percent. The expansion measurement is counted cumulatively from the effective date of Ordinance No. 860. If the structure is in the floodway, there shall be no change in the ~~dimensions~~ dimensions of the structure. perpendicular to flow;
  - (5) Activities with the sole purpose of creating, restoring and/or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet federal and state standards, if the activities do not include the creation of structures and/or impervious surfaces;
  - (6) Development of open space and recreational facilities, such as parks, trails, and hunting grounds, that do not include fill, the creation of structures and/or impervious surfaces, and/or removal of more than five percent of the native vegetation on that portion of the property in the regulatory floodplain; and
  - (7) Maintenance and/or repair to on-site septic systems provided the ground disturbance is the minimum necessary to carry out the maintenance and/or repair.

#### **14.64.035 Other Activities.**

All other activities not listed in Sections 14.64.030(a) and (b) that are allowed by Chapter 14.44 are allowed, provided they meet all the other requirements of this chapter, including providing a habitat impact assessment pursuant to Section 14.64.055(c) and obtaining a floodplain development permit prior to the activity.

#### **14.64.040 Development Standards.**

- (a) Structures, impervious surfaces, and other development shall be located to avoid flood damage.

- (1) If a lot has a buildable site out of the regulatory floodplain, when possible, all new structures, impervious surfaces, and other development shall be located in that area.
  - (2) If a lot does not have a buildable site out of the regulatory floodplain, all new structures, impervious surfaces, and other development must be sited in the location that has the least impact on habitat by locating the structures, impervious surfaces, and other development as far from the water body as possible and/or placing the structures, impervious surfaces, and other development on the highest land on the lot.
  - (3) If the proposed project cannot meet the criteria of subsection (a)(1) or (2) of this section, a habitat impact assessment shall be conducted pursuant to Section 14.64.055(c) and, if necessary, a habitat mitigation plan shall be prepared and implemented pursuant to Section 14.64.055(d), prior to locating structures, impervious surfaces, and other development within the regulatory floodplain.
- (b) Applicants shall design and locate all new structures, impervious surfaces, and other development to minimize the impact on flood flows, flood storage, water quality, and habitat.
- (1) To the extent feasible, stormwater and drainage features shall incorporate low impact development techniques that mimic predevelopment hydrologic conditions, such as stormwater infiltration, rain gardens, grass swales, filter strips, disconnected impervious areas, permeable pavement, and vegetative roof systems, pursuant to Chapter 11.06.
  - (2) If a project proposes to create new impervious surfaces on more than 10 percent of that portion of the lot in the regulatory floodplain, the applicant shall demonstrate that there will be no net increase in the rate and volume of the stormwater surface runoff leaving the site or mitigate the adverse impacts, pursuant to Chapter 11.06.
- (c) Hazardous Materials. New development shall not create a threat to public health, public safety, and/or water quality. Chemicals, explosives, gasoline, propane, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, and other materials that are hazardous, toxic, or a threat to water quality are prohibited from the regulatory floodplain. This prohibition does not apply to small quantities of these materials kept for normal household use, or to the continued operations of existing facilities and structures, reuse of existing facilities and structures, or functionally dependent facilities or structures.
- (1) If the proposed development cannot meet the criteria of subsection (c) of this section, the applicant must provide a habitat impact assessment pursuant to Section 14.64.055(c) prior to any approval of the proposed development.
- (d) Critical Facilities.
- (1) To the extent possible, construction of new critical facilities shall be located outside the limits of the regulatory floodplain.
  - (2) Construction of new critical facilities in the regulatory floodplain shall be permissible if no feasible alternative site is available, provided:
    - (i) Critical facilities shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. If there is no available data on the 500-year flood, the permit applicants shall develop the needed data in accordance with FEMA mapping guidelines.
    - (ii) Access to and from the critical facility shall be protected to the elevation of the 500-year flood.

#### 14.64.045 Construction Standards for Protection of Structures.

The provisions of this section shall apply in the special flood hazard area. All new structures and substantial improvements shall be protected from flood damage below the flood protection elevation.

(a) Applicability. The protection requirements of this section apply to all new structures and substantial improvements, which include:

- (1) Construction or placement of a new structure, including over-water structures and shoreline stabilization;
- (2) Reconstruction, rehabilitation, and/or other improvement that will result in a substantially improved structure, including over-water structures and shoreline stabilization;
- (3) Repairs to an existing structure that has been substantially damaged;
- (4) Placing a manufactured home on a site; and
- (5) Placing a recreational vehicle or travel trailer on a site for more than 180 days.

(b) Flood Protection Standards.

- (1) All new structures and substantial improvements shall have the lowest floor including basements elevated at least one foot above the flood protection elevation. Upon completion of the structure, certification by a registered professional surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator for verification.
- (2) Where practicable, new structures shall align parallel with the direction of flood flows.
- (3) To prevent flotation, collapse, and/or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, all new structures shall provide anchoring.
- (4) All materials below the flood protection elevation shall be resistant to flood damage; provided, however, that materials harmful to aquatic wildlife, such as creosote, are prohibited below the flood protection elevation.
- (5) Electrical, heating, ventilation, ductwork, plumbing, and air-conditioning equipment and other service facilities shall be elevated above the flood protection elevation. Water, sewage, electrical, and other utility lines below the flood protection elevation shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding.
- (6) Fully enclosed areas below the lowest floor that are subject to flooding shall be used only for parking, storage, and/or building access and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or licensed architect and/or meet or exceed the following minimum criteria:
  - (i) Fully enclosed areas shall provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (ii) The bottom of all openings shall be no higher than one foot above grade.



(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(c) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall be elevated in accordance with subsection (b) of this section. As an alternative to elevation, a new or substantial improvement to a commercial, industrial, or other nonresidential structure and its attendant utility and sanitary facilities may be dry flood-proofed if the following criteria are met:

- (1) The structure is below the flood protection elevation and the structure is watertight with walls substantially impermeable to the passage of water;
- (2) The structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) A registered professional engineer or licensed architect certifies that the design and methods of construction conform to accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. The applicant shall provide such certifications with their floodplain development application.

(4) Upon completion of the structure, certification by a registered professional surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator for verification; or certification by a registered professional engineer or architect that the floodproofing design of this section is satisfied, including the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be provided to the Floodplain Administrator for verification.

(d) Manufactured Homes. The placing of all manufactured homes or substantial improvements to existing manufactured homes on sites shall be:

- (1) Elevated on a permanent foundation in accordance with subsection (b) of this section; and
- (2) Securely anchored to a foundation/foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other applicable anchoring requirements for resisting wind forces.

(3) Upon completion of installation of the manufactured home, certification by a registered professional surveyor that the elevation requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

(e) Recreational Vehicles. Recreational vehicles placed on sites shall:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; and/or
- (3) Meet the requirements of subsection (d) of this section.

(f) Appurtenant Structures. A structure on the same parcel as the principal structure, when the use is incidental to the use of the principal structure and is not used for human habitation, may be exempt from the elevation requirement of subsection (b) of this section, provided:

- (1) It is used only for parking or storage;
- (2) It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- (3) It is anchored to prevent flotation which may result in damage to other structures;
- (4) All portions of the structure below the flood protection elevation must be constructed of flood-resistant materials;
- (5) Service utilities such as electrical and heating equipment meet the standards of subsections (b) and (g) of this section;
- (6) It has openings to allow free flowage of water that meet the criteria in subsection (b)(6) of this section; and
- (7) The project meets all the other requirements of this chapter.

(8) Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

(g) Construction of Below-Grade Crawlspace \*\*

- (1) The interior grade of a crawlspace must not be more than two (2) feet below the exterior lowest adjacent grade (LAG).
- (2) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point.
- (3) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- (4) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

\*\* See FEMA Technical Bulletin 11 for further information.

(h) Utilities.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- (2) Water wells shall be located outside the floodway and shall be protected to the flood protection elevation;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. As a condition of approval for an on-site waste disposal system within the regulatory floodplain, the applicant must prepare and provide a habitat impact assessment in accordance with Section 14.64.055(c).

#### 14.64.050 Special Provisions for ~~Subdivisions~~Development Proposals.

- (a) This section applies to all ~~subdivision development~~ proposals including but not limited to ~~subdivisions, manufactured home parks, subdivisions,~~ short subdivisions, planned developments, and binding site plans per Chapter 14.18 ~~LSMC~~.
- (b) All proposals shall be consistent with the need to minimize flood damage.
- (c) All proposals shall have utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage.
- (d) All proposals shall provide adequate drainage to reduce exposure to flood damage.
- (e) Wherever possible, all proposals shall provide at least one access road connected to land outside the regulatory floodplain with the surface of the road at or above the flood protection elevation.
- (f) Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for ~~subdivision development~~ proposals ~~and other proposed developments which contain at least~~greater than 50 lots or five acres (whichever is ~~the~~ lesser).
- (g) The final recorded plat, short plat, or binding site plan shall include a note that a portion of the property contains land within the regulatory floodplain including special flood hazard areas and protected areas, as applicable.

#### 14.64.053 Variances

##### (a) Variances shall only be issued:

- (1) Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
- (2) For the repair, rehabilitation or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; \*\*
- (3) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- (4) Upon a showing of good and sufficient cause;
- (5) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (6) Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in LSMC 14.64.060 of this ordinance in the definition of "Functionally Dependent Use."

\*\* Per FEMA P-467-2 (May 2008) Floodplain Management Bulletin Historic Structures and FEMA P-993 (July 2014) Floodplain Management Bulletin Variances and the National Flood Insurance Program, communities have the option of using either the Substantial Improvement Definition exclusion or the Variance criteria per 44CFR 60.6(a) to regulate Historic Structures.



- (b) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- (c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation, provided the procedures found in sections LSMC 14.64.020 and LSMC 14.64.040 through 14.64.050 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (d) In considering variance applications, the Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
- (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger of life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system and streets and bridges.
- (e) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
- (1) The issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  - (2) Such construction below the base flood elevation increases risks to life and property; and
  - (3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

#### **14.64.055 Standards for Habitat Protection.**

The provisions of this section shall apply in the regulatory floodplain.

(a) Native Vegetation.

- (1) In the riparian habitat zone (required buffers per Chapter 14.88 and the Shoreline Master Program), native vegetation shall be left undisturbed, except as provided in Section 14.64.030.
- (2) Outside the riparian habitat zone, removal of native vegetation shall not exceed 35 percent of the surface area of the portion of the site in the regulatory floodplain. The applicant can count native vegetation in the riparian habitat zone portion of the property (required buffers per Chapter 14.88 and the Shoreline Master Program) toward this requirement.
- (3) If the proposed project does not meet the criteria of Section 14.64.030(a) and (b), the applicant shall provide a habitat impact assessment pursuant to subsection (c) of this section, and, if necessary, a habitat mitigation plan pursuant to subsection (d) of this section, prior to any approval of the proposed project.

(b) Compensatory Storage. New development shall not reduce the effective flood storage volume of the regulatory floodplain. A development proposal shall provide compensatory storage if grading or other activity eliminates any effective flood storage volume. Compensatory storage areas shall:

- (1) Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, "equivalent elevation" means having similar relationship to ordinary high water and to the best available 10-year, 50-year and 100-year water surface profiles;
- (2) Be hydraulically connected to the source of flooding;
- (3) Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins; and
- (4) The newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish stranding sites.

(c) Habitat Impact Assessment. Unless allowed under Section 14.64.030(a) and (b), a permit application to develop in the regulatory floodplain shall include an assessment of the impact of the project on federal, state and/or locally protected species and habitat, water quality and aquatic and riparian habitat. The assessment shall be one of the following:

- (1) A biological evaluation or biological assessment developed per 50 CFR 402.12 to initiate federal interagency consultation under Section 7(a)(2) of the Endangered Species Act; or
- (2) Documentation that the activity fits within Section 4(d) of the Endangered Species Act; or
- (3) Documentation that the activity fits within a habitat conservation plan approved pursuant to Section 10 of the Endangered Species Act, where any such assessment has been prepared or is otherwise made available; or
- (4) An assessment prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010. The assessment shall determine if the project would adversely affect:
  - (i) Species that are federal, state or local listed as threatened or endangered;



- (ii) The primary constituent elements for critical habitat, when designated;
  - (iii) Essential fish habitat designated by the National Marine Fisheries Service;
  - (iv) Fish and wildlife habitat conservation areas, per Chapter 14.88, Part IV, or the Shoreline Master Program Appendix B; and
  - (v) Other protected areas and elements necessary for species conservation.
- (d) Habitat Mitigation Plan.
- (1) If the assessment, conducted under subsection (c) of this section, concludes the project will have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the applicant shall provide a plan to mitigate those impacts, in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2010.
    - (i) If the project is located outside the protected area, the mitigation plan shall include such avoidance, minimization, restoration, or compensation measures as are appropriate for the situation.
    - (ii) If the project is located in the protected area, the mitigation plan shall stipulate avoidance measures as are needed to ensure that there is no adverse effect during any phase of the project.
  - (2) The proposed project shall incorporate the plan's habitat mitigation activities. The redesigned project and its mitigation components shall be the basis for the floodplain development permit.
  - (3) The Floodplain Administrator shall not issue a certification of use and/or occupancy until the applicant completes all the work identified in the biological evaluation, biological assessment, and/or mitigation plan or provides the necessary assurance to complete unfinished portions of the project, in accordance with Section 14.16A.180.

#### **14.64.060 Definitions**

Alteration of watercourse. Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding. A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The elevation to which floodwater is anticipated to rise during the base flood.

Basement. Any area of the building having its floor sub-grade - i.e., below ground level - on all sides.

Building. See "Structure."

Critical Facility. A facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation Certificate. The official form (Form 81-31) used by FEMA to provide elevation information necessary to determine the proper flood insurance premium rate.

Flood or Flooding.

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Fringe. The portion of the floodplain lying outside of the floodway.

Flood Insurance Rate Map (FIRM). The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). See "Flood elevation study".

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source. See "Flood or flooding."



Floodplain administrator. The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood proofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Frequently Flooded Areas. Lands indicated on the most current FEMA map to be within the 100-year floodplain. These areas include, but are not limited to, streams, lakes, coastal areas, and wetlands

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or
  - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor. The lowest floor of the lowest enclosed area (including "Basement"). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than

a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

One-hundred-year flood or 100-year flood. See "Base flood."

Recreational vehicle. A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway. See "Floodway".

Sheet flow area. See "Area of shallow flooding".

Special Flood Hazard Area (SFHA). See "Area of special flood hazard".

Start of construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling,



floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance. A grant of relief by a community from the terms of a flood plain management regulation.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.